

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CAPITAL 7 FUNDING,

Plaintiff,

-against-

WINGFIELD CAPITAL CORPORATION,
PRESTIGE INVESTMENT ASSOCIATES, INC.,
d/b/a PRESTIGE INVESTMENTS USA, and
FIRST CHOICE PAYMENT SYSTEMS, INC.,
d/b/a 1ST CHOICE PAYMENTS,

Corporate Defendants,

-and-

BURGIS SETHNA, a/k/a SETH BURGESS,
HEATH WAGENHEIM, JOSEPH RABITO,
DAMIAN LALJIE a/k/a DAMIAN LALTIE, and
JOHN DOES 1 THROUGH 15,

Individual Defendants.
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Docket No. 17-02374
(RRM) (ST)

DECLARATION OF IN
SUPPORT OF MOTION
TO BE RELIEVED AS
COUNSEL

MATTHEW F. DIDORA declares the following to be true under the penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a member of Abrams, Fensterman, Fensterman, Eisman, Formato, Ferrara, Wolf & Carone, LLP ("Abrams Fensterman"), counsel to defendants Burgis Sethna a/k/a Seth Burgess ("Sethna") and Heath Wagenheim ("Wagenheim"). I make this declaration in support of Abrams Fensterman's motion pursuant to Local Civil Rule 1.4 to be relieved as counsel for Sethna and Wagenheim.

2. The matters set forth herein are based upon my personal knowledge.

3. On February 20, 2018, the law firm Birzon Strang & Associates filed a Notice of Appearance on behalf of Sethna and Wagenheim (and Wingfield Capital Corporation). The notice states that the Birzon firm is replacing Abrams Fensterman. (Exh. 1 – Notice of Appearance (ECF Docket No. 34)).

4. My office has contacted the Birzon firm, and they have confirmed that the intent is for that firm to replace Abrams Fensterman entirely as counsel for Sethna and Wagenheim.

5. Over the last several months, there has been a breakdown in communication between our office and Sethna and Wagenheim. Neither one contacted us before or after the Birzon firm filed the notice of appearance.

6. It is apparent that Sethna and Wagenheim have elected to engage alternative counsel to represent their interests in this case.

7. Accordingly, Abrams Fensterman ought to be relieved as their counsel.

8. Given the early stage of this action and the fact that alternative counsel is already in place, the relief requested herein can be granted without any prejudice to Sethna or Wagenheim and without any delay in the action.

Dated: March 8, 2018


Matthew F. Didora